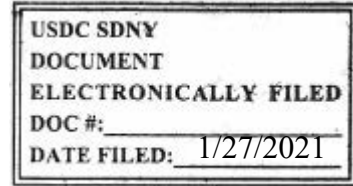


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Josue Romero,

Plaintiff,

—v—

88 Acres Foods, Inc.,

Defendant.

20-cv-9215 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On January 25, 2021, the Defendant filed a motion to dismiss. Pursuant to Rule 3.F. of this Court’s Individual Practices in Civil Cases, on or before February 5, 2021, the Plaintiff must notify the Court and its adversary in writing whether (1) it intends to file an amended pleading and when it will do so or (2) it will rely on the pleading being attacked. The Plaintiff is on notice that declining to amend its pleadings to timely respond to a fully briefed argument in the Defendant’s motion to dismiss may well constitute a waiver of the Plaintiff’s right to use the amendment process to cure any defects that have been made apparent by the Defendant’s briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility”).

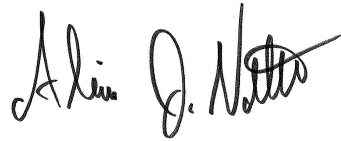
If the Plaintiff chooses to amend, the Defendant may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that they rely on the initially-filed motion to dismiss.

The initial pretrial conference scheduled for February 5, 2021, is adjourned and all discovery is stayed pending disposition of the motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

SO ORDERED.

Dated: January 27, 2021
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", with a long, sweeping horizontal stroke extending to the right.

ALISON J. NATHAN
United States District Judge